THE HON'BLE SRI JUSTICE C.V. RAMULU

Wednesday, 31st day of January,2007

W.P.No.9628 of 1997

Between:-

K. Venkatarama Raju ...
Petitioner

and

The Executive Officer,
Tirumala Tirupathi Devasthanams ,
Tirupathi and others ...
Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.9628 of 1997

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus declaring the action of the respondents in not granting pensionary benefits to the petitioner as arbitrary, discriminatory and contrary to law and consequently to direct the respondents to grant pensionary benefits to the petitioner including gratuity, welfare fund, gold dollar etc., with interest at 24% per annum from the date of petitioner's eligibility for the pension till the date of payment.

It appears, the petitioner was appointed as Server in the services of Sri Govindaraja Swamy Arts College Hostel maintained by Tirumala Tirupathi Devasthanams, with effect from 1-8-1975. But, his services were regularized in the cadre of Server with effect from 3-6-1991. Thereafter, the petitioner retired from service on attaining the age of superannuation on 30-6-1993.

It is the case of the petitioner that right from 1975, Provident Fund contributions are being deducted from the wages paid to him. Therefore, on attaining the age of superannuation on 30-6-1993, he is entitled for Family Pension as well as Pension as contemplated under the Regulations of the Tirumala Tirupathi Devasthanams. Further, the pension scheme was revised on 16-11-1995 with effect from 1-4-1993 and as such, the benefits of

Revised Pension Scheme-1995 are also applicable to him. He is paid neither the revised pension under the Family Pension Scheme nor pensionary benefits and other retiral benefits on attaining the age of superannuation on 30-6-1993 by Tirumala Tirupathi Devasthanams. The same is arbitrary and illegal.

Respondent No.1 filed a detailed counter affidavit stating that the services of the petitioner were regularized with effect from 3-6-1991 and thereafter, hardly he had put in two years of service i.e., he retired from service on attaining the age of superannuation on 30-6-1993. As per the pension rules applicable to the employees of Tirumala Tirupathi Devasthanams, an employee, who has completed 10 years of continuous service, which is countable towards probation etc., is alone entitled for pension. Since the petitioner has put in hardly two years of regular service, his case for grant of pension under Tirumala Tirupathi Devasthanams' Service Rules cannot be considered.

Respondent No.2 filed a detailed counter affidavit denying the allegations made by the petitioner. Though it is admitted that the petitioner was a Member of Provident Fund from 1975 under the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act,1952, he resigned from service with effect from 1-8-1991 and the Office of the 2nd respondent received the contributions made by the petitioner only upto that date i.e. 1-8-1991. Petitioner claimed refund of the amounts and accordingly, PF and Family Pension amounts were refunded to him in September,1993 to an extent of Rs.10,169/- and Rs.1,215/-

respectively. Thereafter, the petitioner submitted a claim for payment of retirement pension on 21-5-1996 on introduction of Pension Scheme of 1995. Petitioner was informed vide letter dated 6-6-1996 while returning the claim that his account was settled in the month of September,1993 itself on the cessation of his membership with effect from 1-8-1991; thus, he is not entitled for pension under the Pension Scheme introduced in the year 1995. May be, he is entitled for the benefits under the Pension Scheme, provided he had continued as a Member of the Scheme at least upto 1-4-1993 since the Pension Scheme of 1995 was made applicable with retrospective effect from 1-4-1993. Petitioner ceased to be a member of the Family Pension Scheme on 1-8-1991 itself and the Pension Scheme introduced with effect from 1-4-1993 is not applicable to him.

Heard both sides.

Though the petitioner disputed that he did not resign from the membership of the Family Pension Scheme with effect from 1-8-1991, the same is not categorically denied by the 2nd respondent, in the sworn affidavit filed by him. Further, it is not in dispute that the petitioner has taken back the contribution amount, when it was refunded by the 2nd respondent. Therefore, it cannot be said that the petitioner is continued to be a Member of the Family Pension Scheme under the Provident Fund Act after 1-8-1991. As such, it cannot be said that the 2nd respondent is in any way responsible for payment of pension under the Family Pension Scheme or under the Revised Pension

Scheme of 1995, which was introduced with retrospective effect from 1-4-1993, since the petitioner ceased to be a member of the Family Pension Scheme with effect from 1-8-1991 itself.

Insofar as claiming pension from the 1st respondent is concerned, as per the Rules of Tirumala Tirupathi Devasthanams, a person, who had completed 10 years of regular service alone is entitled for pension. Admittedly, the services of the petitioner were regularized in the cadre of Server with effect from 3-6-1991 and on attaining the age of superannuation, he was made to retire on 30-6-1993. Therefore, it cannot be said that the petitioner is entitled for pension under Tirumala Tirupathi Devasthanams' Pension Rules, as a matter of right.

However, it is the case of the petitioner that he was not paid gratuity, welfare fund, gold dollar etc. Whether a person is a regular employee or daily wage employee or on consolidated salary, he is entitled to receive gratuity as per law. Therefore, the respondent-Tirumala Tirupathi Devasthanams would not have rejected the claim of the petitioner for the purpose of payment of gratuity, welfare fund, gold dollar and other benefits, as per law.

In view of the above, the Writ Petition is disposed of directing the 1st respondent to consider the claim of the petitioner for payment of gratuity, welfare fund, gold dollar etc., as per his eligibility under the Act and the Scheme respectively and pass appropriate Orders, within a period of four weeks from the date of receipt of a copy of this order and communicate the same to the petitioner forthwith,

thereafter.

With the above direction, the Writ Petition is disposed of. No order as to costs.

31-1-2007

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